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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,340	02/06/2006	Tadahiro Hiramoto	Q87742	9312
65565	7590	06/08/2007	EXAMINER	
SUGHRUE-265550			GEORGE, KONATA M	
2100 PENNSYLVANIA AVE. NW			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20037-3213			1616	
			MAIL DATE	DELIVERY MODE
			06/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/533,340	HIRAMOTO ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Konata M. George	1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 28 February 2007.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-3,5-9 and 11-22 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-3,5-9 and 11-22 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

Claims 1-3, 5-9 and 11-22 are pending in this application.

### ***Action Summary***

1. The examiner acknowledges the cancellation of claims 3 and 10. Therefore, any and all objections and/or rejections directed towards them are withdrawn.
2. The rejection of claims 1-3 and 5-9 under 35 U.S.C. 103(a) over Bolle et al. is hereby withdrawn in view of applicants amendment to the claims.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bolle et al. (US 6,217,942).

***Determination of the scope and content of the prior art***  
**(MPEP §2141.01)**

Bolle et al. teaches a composition comprising a solution of lignin mixed with a phenolic compound-oxidizing enzyme (abstract).

***Ascertainment of the difference between the prior art and the claims***  
**(MPEP §2141.02)**

The prior art does not teach the intended use of the composition as disclosed in claim 13.

***Finding of prima facie obviousness***

***Rational and Motivation (MPEP §2142-2143)***

Intended use must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Since the compositions are the same (comprising a lignin and a phenolic compound-oxidizing enzyme) in both the instant invention and prior art, one of ordinary skill in the art could use the composition of the prior art in an oral care products, sanitary products or pet products.

4. Claims 1-3, 5-9 and 11-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Echigo et al. (US 6,537,546) in view of Yamashita et al. (US 6,780,403).

***Determination of the scope and content of the prior art***

**(MPEP §2141.01)**

Echigo et al. disclose in column 3, lines 9-14, mixing phenolic compounds with enzymes having a polyphenol oxidizing activity. Column 3, lines 18-22 teach examples of the enzyme and lines 53-57 teach the phenolic compound as a lignin and examples thereof. Column 4, lines 16-21 teach the use of the composition as a deodorant or as smell eliminators.

***Ascertainment of the difference between the prior art and the claims***

**(MPEP §2141.02)**

Echigo et al. do not teach the addition of a fragrance or a flavor in the composition. It is for this that Yamashita et al. is joined.

Yamashita et al. disclose a deodorant composition which comprises a perfume (col. 5, line 66 through col. 6, line 44).

***Finding of prima facie obviousness***

***Rational and Motivation (MPEP §2142-2143)***

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Yamashita et al. with the invention of Echigo et al. Yamashita et al. is relied upon to teach that perfumes are known ingredients to be added to deodorants. Since Echigo et al. teach that the composition can be used as a deodorant, adding a perfume to the composition would have been obvious to one of ordinary skill in the art.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Telephone Inquiries***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Konata M. George, whose telephone number is 571-272-0613. The examiner can normally be reached from 8AM to 6:30PM Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter, can be reached at 571-272-0646. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have question on access to the Private Pair system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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